

Mailed:

**THIS DISPOSITION IS NOT
CITABLE AS PRECEDENT OF
THE TTAB**

September 22, 2005
GDH/gdh

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Station Casinos, Inc.

Serial No. 75935945

Jason Firth of Quirk & Tratos for Station Casinos, Inc.

Angela Micheli, Trademark Examining Attorney, Law Office 108
(Andrew Lawrence, Managing Attorney).

Before Quinn, Hohein and Bucher, Administrative Trademark Judges.

Opinion by Hohein, Administrative Trademark Judge:

Station Casinos, Inc. has filed an application to register on the Principal Register the mark "DURANGO STATION" for "clothing, namely, shirts, jackets and hats" in International Class 25.¹

Registration has been finally refused under Section 2(d) of the Trademark Act, 15 U.S.C. §1052(d), on the ground that applicant's mark, when applied to its goods, so resembles the following marks, which are registered by the same registrant on the Principal Register for the goods set forth below, as to be likely to cause confusion, or to cause mistake, or to deceive:

¹ Ser. No. 75935945, filed on March 2, 2000, which is based on an allegation of a bona fide intention to use such mark in commerce.

(i) the mark "DURANGO," in standard character form, which is registered for "western boots"² and "jeans, pants, shirts, jackets and socks";³

(ii) the mark "DURANGO" and design, as shown below,



which is registered for "boots, socks, jackets, and shirts";⁴ and

(iii) the mark "DURANGO" and design, as illustrated below,



which is registered for "jeans, pants, jackets and T-shirts."⁵

Applicant has appealed. Briefs have been filed, but an oral hearing was not requested. We affirm the refusal to register.

Our determination under Section 2(d) is based on an analysis of all of the facts in evidence which are relevant to

² Reg. No. 790,751, issued on June 8, 1965, which sets forth a date of first use of the mark anywhere and in commerce of June 24, 1964; second renewal.

³ Reg. No. 2,562,205, issued on April 16, 2002, which sets forth a date of first use of the mark anywhere and in commerce of August 1999.

⁴ Reg. No. 2,304,436, issued on December 28, 1999, which sets forth a date of first use of the mark anywhere and in commerce of March 1997.

⁵ Reg. No. 2,660,084, issued on December 10, 2002, which sets forth a date of first use of the mark anywhere and in commerce of March 31, 2000.

the factors bearing on the issue of whether there is a likelihood of confusion. In re E. I. du Pont de Nemours & Co., 476 F.2d 1357, 177 USPQ 563, 568 (CCPA 1973). However, as indicated in Federated Foods, Inc. v. Fort Howard Paper Co., 544 F.2d 1098, 192 USPQ 24, 29 (CCPA 1976), in any likelihood of confusion analysis, two key considerations are the similarity or dissimilarity in the goods at issue and the similarity or dissimilarity of the respective marks in their entireties.⁶ Here, inasmuch as applicant's "shirts" and "jackets" are goods which are legally identical to registrant's "shirts" and "jackets" and thus such goods would necessarily be sold through the same channels of trade to the same classes of customers,⁷ the

⁶ The court, in particular, pointed out that: "The fundamental inquiry mandated by §2(d) goes to the cumulative effect of differences in the essential characteristics of the goods and differences in the marks." 192 USPQ at 29.

⁷ It is noted that applicant argues in its brief that its "'shirts, jackets and hats' ... will be offered at its new multi-million dollar DURANGO STATION resort hotel and casino" and, therefore, that such goods actually "are mementos or souvenir items [used] to promote ... its core services, as opposed to goods marketed for their own account." Claiming, furthermore, that the word "STATION" is its house mark for its various resort hotel and casino properties, applicant insists that the goods at issue herein, including shirts and jackets, are not similar or otherwise related because:

The situation encountered here is one where Applicant's mark [DURANGO STATION] will be used exclusively under the purview of its respective housemark [sic] [STATION], and will only be seen on clothing within its associated property. The consuming public will know that they are merely purchasing a collateral good that has been produced to promote the Applicant's core services, namely, resort hotel and casino services. As these services are distinguishable from Registrant's ... [goods], consumers will know the source or origin of the ancillary goods, and the likelihood of confusion will be eliminated.

The Examining Attorney, however, maintains in her brief that the respective goods "are related in that they are articles of clothing, and specifically[,] the articles of clothing are identical in part." As the Examining Attorney correctly points out, the "determination of

focus of our inquiry is accordingly on the similarity or dissimilarity of the respective marks.

Turning, therefore, to such issue, applicant in its brief asserts by way of background (although notably without any proof thereof) that it "is one of the leading providers of gaming and entertainment in Las Vegas, Nevada, owning and operating several multi-million dollar hotel resort properties."

Specifically, applicant claims that:

Appellant owns and operates Palace
Station Hotel & Casino, Boulder Station Hotel

whether there is a likelihood of confusion is made solely on the basis of the goods identified in the application and registration, without limitations or restrictions that are not reflected therein." See, e.g., Canadian Imperial Bank of Commerce, N.A. v. Wells Fargo Bank, 811 F.2d 1490, 1 USPQ2d 1813, 1815-16 (Fed. Cir. 1987) and Paula Payne Products Co. v. Johnson Publishing Co., Inc., 473 F.2d 901, 177 USPQ 76, 77 (CCPA 1973). In consequence thereof, she properly observes that:

If the cited registration describes the goods broadly and there are no limitations as to their nature, type, and channels of trade or classes of purchasers, then it is presumed that the registration encompasses all goods of the type described, that they more in all normal channels of trade, and that they are available to all potential customers. *In re Linkvest S.A.*, 24 USPQ2d 1716 (TTAB 1992); *In re Elbaum*, 211 USPQ 639 (TTAB 1981); TMEP §1207.01.(a)(iii). The goods of the applicant and the registrant flow in the same channels of trade. The clothing articles would be sold in clothing stores, department [stores], catalogues and websites. In addition, the goods would be advertised to people who are interested in buying articles of clothing.

Moreover, inasmuch as it is well settled that a refusal under Section 2(d) is proper if there is a likelihood of confusion involving one or more of the goods listed in the application and any of the goods set forth in the cited registrations, it is unnecessary to rule with respect to the other goods listed in the cited registrations. See, e.g., Tuxedo Monopoly, Inc. v. General Mills Fun Group, 648 F.2d 1335, 209 USPQ 986, 988 (CCPA 1981) and Shunk Mfg. Co. v. Tarrant Mfg. Co., 318 F.2d 328, 137 USPQ 881, 883 (CCPA 1963). Accordingly, we need not consider whether contemporaneous use of applicant's "DURANGO STATION" mark in connection with "hats" is likely to cause confusion with registrant's various "DURANGO" marks for its goods, including items such as its "western boots," "jeans," "pants," "socks" and "T-shirts."

& Casino, Santa Fe Hotel & Casino, Wild Wild West Gambling Hall & Hotel, and the Wildfire Casino in Las Vegas, Nevada, Texas Station Gambling Hall & Hotel, Fiesta Rancho Casino Hotel in North Las Vegas, Nevada, and Sunset Station Hotel & Casino and Fiesta Henderson Casino Hotel in Henderson, Nevada. Appellant also owns a 50 percent interest in both Barley's Casino & Brewing Company and Green Valley Ranch Station Casino in Henderson, Nevada. Appellant has spent millions of dollars developing and advertising its world famous resort hotel casinos.

Applicant argues, in view thereof, that "the Examiner erred ... by improperly dissecting Applicant's composite mark, and assigning the dominant portion of the mark to DURANGO, and not STATION." According to applicant, by focusing on the word "DURANGO" as "the dominant or only feature of all the marks," "the Examiner ... summarily dismissed the STATION portion of Applicant's mark ... without providing any plausible explanation of why this was done."

Applicant acknowledges, however, that while marks are to be considered in their entirety for purposes of determining whether contemporaneous use thereof is likely to cause confusion, "one feature of a mark may be more significant and it may be proper to give greater force and effect to that dominant feature." Applicant, citing *Price Candy Co. v. Gold Medal Candy Corp.*, 220 F.2d 759, 105 USPQ 266, 268 (CCPA 1955), notes in this regard that "[o]ne criterion for determining this dominant portion of a composite mark is that if a buyer would be more likely to remember and use one part of a mark as indicating origin of the goods, then this is the dominant portion of the mark." Applicant maintains that, "[s]ince a well known or famous

part of a composite mark will likely make the most impression on the ordinary viewer, that part will be treated as the dominant portion of the conflicting marks and will be given greater weight in the comparison."

In view thereof, applicant further asserts that "the Examiner erred in placing greater weight in [sic] the DURANGO portion of the [applicant's] mark, instead of the STATION portion," in that:

It is unquestionable that the STATION mark is the famous portion of Applicant's composite mark. DURANGO STATION, once completed, will merely be one of seven other hotels marketed under the widely known STATION family of marks. As previously explained, Applicant has made tremendous efforts to advertise and promote its STATION marks, with each individual property acting simply as a part of this resort hotel and casino conglomerate. To assign dominance to the DURANGO term, which is not yet even in use, over STATION, which has been widely recognized for almost 20 years, see PALACE STATION HOTEL-CASINO (Reg. No. 1494589) (listing a first use date of ... 11/20/1985), in [sic] plainly contrary to established trademark law.

Consequently, applicant insists, "[w]hen the marks [at issue] are compared in their entirety, and dominance is assigned to the proper portion of Applicant's mark, specifically the STATION term, it becomes clear that the marks are not similar and no likelihood of confusion exists" because "[c]onsumers immediately recognize the STATION mark as indicative of a family of marks owned by Applicant, and are clear as to the source or sponsorship of any goods purchased"

Moreover, citing *Marcon Ltd. v. Avon Products, Inc.*, 4 USPQ2d 1474, 1476 (TTAB 1987), applicant argues that "[a]llthough

the general rule is that the addition of a trade name or house mark to another's mark will not, by itself[,] avoid a likelihood of confusion, exceptions can arise when there are some recognizable differences between the basic marks such that the addition will render the [respective marks] totality [sic] distinguishable." Applicant asserts that this is indeed such a case, especially in view of the design elements which are present in two of registrant's "DURANGO" marks.

Finally, applicant points out that in a response to an Office action, it "listed several third[-]party registrations in which the term DURANGO appears," namely, registrations for the marks "DURANGO KID (Reg. No. 2,456,931) for children's clothing including fleece jackets, sweatshirts, and t-shirts; DURANGO & SILVERTON NARROW GUAGE [sic] RAILROAD (Reg. No. 2,547,219) for clothing, namely, shirts and jackets; and DURANGO & SILVERTON NARROW GUAGE [sic] RAILROADAND [sic] MUSEUM (Reg. No. 2,593,702) for clothing, namely, shirts and jackets." While conceding that third-party registrations "are not dispositive," applicant urges that "they do carry some weight when deciding likelihood of confusion." In particular, applicant asserts that:

The presence of other ... registered uses of a term can indicate that a market may be crowded with similar terms. Where a market is crowded, customers will likely not be confused between any two of the crowd and may have learned to pick carefully out one from the other. Thus, the breadth of protection available to such marks is narrowed by the presence of similar marks in the marketplace. More importantly, the TTAB has noted that where a field is crowded, similar marks can be registered with minor distinctions. *In re Broadway Chicken, Inc.*, 38 U.S.P.Q.2d 1559 (T.T.A.B. 1996).

Therefore, multiple registrations can exist with only minor differences distinguishing them. Although Applicant has previously argued that the differences between its mark and Registrant's mark[s] are more than "minor," Applicant submits that even if the differences are deemed to be less significant, they are still enough to distinguish its mark and ... [are] more distinguishable than from at least one of the prior registrations, notably, DURANGO KID.

The Examining Attorney, on the other hand, insists that confusion is likely, arguing in her brief that "applicant's mark and the registrant's marks are all very similar in appearance and meaning" because the shared term "DURANGO ... is the only word in ... [one] of the registrant's marks, the dominant feature of the registrant's other two marks and the beginning word in the applicant's mark." Insisting that she "has not ignored the STATION element of the applicant's mark," the Examining Attorney nonetheless maintains that "[t]he DURANGO element is also the dominant feature of the applicant's mark." The reason therefor, the Examining Attorney contends, is "because it comes first in the mark and as such it is read first by the potential consumers [of applicant's goods], and would be the consumers' primary focus." In addition, the Examining Attorney subjectively "finds the Durango element is more unique and distinctive than is the more ordinary and bland element, Station." She consequently "believes that the potential consumers would better remember the word Durango than the word Station."

As to applicant's assertions of fame for its "DURANGO STATION" mark and its claimed "STATION" house mark, the Examining Attorney accurately points out that "[t]here is no evidence of

record to support the applicant's claim to fame of its mark[s]." Citing *Bose Corp. v QSC Audio Products Inc.*, 293 F.3d 1367, 63 USPQ2d 1303, 1305 (Fed. Cir. 2002) for the proposition that, "[w]hile direct evidence of consumer recognition of a mark," such as a survey, "is not necessary, the 'fame of a mark may be measured indirectly, among other things, by the volume of sales and advertising expenditures of the goods traveling under the mark, and by the length of time those indicia of commercial awareness have been evident," the Examining Attorney correctly observes that:

The applicant's evidence of fame of its mark[s] consists of a statement that applicant has made tremendous efforts to advertise and promote its STATION marks, and a statement saying it has a registration for the mark PALACE STATION HOTEL-CASINO. While the applicant may promote its Station marks, the applicant has presented no sales and advertising materials in which any Station mark appears. There really is no evidence of fame of any of the marks

With respect to applicant's argument that the addition of its asserted house mark "STATION" avoids any likelihood of confusion between its "DURANGO STATION" mark and registrant's "DURANGO" marks, the Examining Attorney maintains that:

Where the marks are otherwise virtually the same, the addition of a house mark is more likely to add to the likelihood of confusion than to distinguish the marks. *Key West Fragrance & Cosmetic Factory, Inc. v. Mennen Co.*, 216 USPQ 168[, 170] (TTAB 1982). It is likely not only that the articles of clothing sold under these marks [herein] would be attributed to the same source but also that purchasers would mistakenly assume that the articles of clothing from the applicant[,] because of its use of the word DURANGO[,] are actually clothing articles emanating from the registrant. See *In re Dennison Mfg. Co.*, 229

USPQ 141, 144 (TTAB 1986), citing *Menendez v. Holt*, 128 U.S. 514 (1888) ("It is a general rule that the addition of extra matter such as a house mark or trade name to one of two otherwise confusingly similar marks will not serve to avoid a likelihood of confusion between them."); ... *Hat Corp. of America v. John B. Stetson Co.*, 223 F.2d 485, 106 USPQ 200 (C.C.P.A. 1955)

Finally, as to applicant's reliance on three third-party registrations for marks which include the term "DURANGO" for jackets and shirts (or T-shirts), the Examining Attorney properly points out that:

Third-party registrations, by themselves, are entitled to little weight on the question of likelihood of confusion. *In re Melville Corp.*, 18 USPQ2d 1386, 1388 (TTAB 1991); *In re Hub Distributing, Inc.*, 218 USPQ 284 (TTAB 1983). Third-party registrations are not evidence of what happens in the marketplace or that the public is familiar with the use of those marks. ... *National Aeronautics and Space Admin. v. Record Chem. Co.*, 185 USPQ 563 (TTAB 1975); TMEP §1207.01(d)(iii). Further, existence on the register of other confusingly similar marks would not assist applicant in registering yet another mark that so resembles the cited registered mark[s] that confusion is likely. *In re Total Quality Group Inc.*, 51 USPQ2d 1474 (TTAB 1999). Prior decisions and actions of other trademark-examining attorneys in registering different marks are without evidentiary value and are not binding upon the Office. Each case is decided on its own facts, and each mark stands on its own merits. *AMF Inc. v. American Leisure Products, Inc.*, 177 USPQ 268, 269 (C.C.P.A. 1973); ... *In re National Novice Hockey League, Inc.*, 222 USPQ 638, 641 (TTAB 1984);

Upon consideration of the arguments presented, we agree with the Examining Attorney that applicant's "DURANGO STATION" mark so resembles registrant's "DURANGO" marks as to be likely, when such marks are used in connection with shirts and jackets,

to cause confusion. Overall, due to the shared term "DURANGO," applicant's mark is substantially similar to registrant's marks in sound, appearance, connotation and commercial impression. Such term constitutes the entirety of registrant's "DURANGO" word mark and is the dominant portion of its two "DURANGO" and design marks since, as the literal element thereof in each instance, it is more likely to be impressed upon a purchaser's memory and to be used in calling for the goods marketed thereunder. See, e.g., In re Dakin's Miniatures Inc., 59 USPQ2d 1593, 1596 (TTAB 1999); and In re Appetito Provisions Co. Inc., 3 USPQ2d 1553, 1554 (TTAB 1987).

Similarly, as to applicant's mark, while we decline to rely upon the Examining Attorney's subjective finding that "the Durango element is more unique and distinctive than is the more ordinary and bland element, Station," it is nonetheless true, as stated in Presto Products, Inc. v. Nice-Pak Products, Inc., 9 USPQ2d 1895, 1897 (TTAB 1988), that "[i]t is often the first part of a mark which is most likely to be impressed upon the mind of a purchaser and remembered." Such part, which in the case of applicant's "DURANGO STATION" mark is the word "DURANGO," would consequently be regarded by consumers as the dominant portion of applicant's mark. See, e.g., Price Candy Co. v. Gold Medal Candy Corp., supra ["One criterion for determining the dominant portion of a trade mark ... is that if a purchaser would be more likely to remember and use one part of a mark as indicating *origin* of the goods, this is the *dominant* part of the mark" (emphasis in original)]. Moreover, and in any event, even if not regarded as

the dominant portion, the word "DURANGO" in applicant's mark is at least as prominent and significant an element thereof as the word "STATION."

Accordingly, as noted above, when considered in their entireties, applicant's "DURANGO STATION" mark is not only very similar in sound to each of registrant's "DURANGO" marks, but the former is highly similar in appearance to registrant's "DURANGO" and design marks since in legal contemplation it must be regarded as being presented in the same stylized lettering as utilized by registrant in its marks. The reason therefor is that applicant's mark, which is sought to be registered in standard character or typed format, covers the display thereof in any reasonable stylization of lettering--including the stylized lettering used by registrant in its design marks for the word "DURANGO." See, e.g., *Phillips Petroleum Co. v. C. J. Webb, Inc.* 442 F.2d 1376, 170 USPQ 35, 36 (CCPA 1971) [a mark in typed or standard character form is not limited to the depiction thereof in any special form]; and *INB National Bank v. Metrohost Inc.*, 22 USPQ2d 1585, 1588 (TTAB 1992) ["[a]s the *Phillips Petroleum* case makes clear, when [an] applicant seeks a typed or block letter registration of its word mark, then the Board must consider all reasonable manners in which ... [the word mark] could be depicted"]. Thus, notwithstanding the additional design features in registrant's "DURANGO" and design marks, applicant's mark must be seen as substantially similar in appearance thereto.

Furthermore, in terms of connotation, as well as sound and appearance, we disagree with applicant that the presence of

the term "STATION" in its mark (irrespective of whether such term is in fact applicant's house mark) is sufficient to distinguish its "DURANGO STATION" mark from registrant's "DURANGO" marks and avoid a likelihood of confusion. The term "STATION" simply fails to render the marks at issue totally distinguishable, as asserted by applicant, since on this record the word "DURANGO" denotes essentially the same place or location as does the term "DURANGO STATION." In view thereof, and in light of the appreciable similarities in sound and appearance, the overall commercial impression engendered by applicant's "DURANGO STATION" mark is so substantially similar to that of each of registrant's "DURANGO" marks that the contemporaneous use of the respective marks in connection with shirts and jackets is likely to cause confusion.

Applicant's argument, however, that there can be no likelihood of confusion because its "DURANGO STATION" mark incorporates its famous "STATION" house mark and thus is part of its "widely known STATION family of marks" fails for a number of reasons, both factual as well as legal. As previously indicated, the Examining Attorney has accurately pointed out that "[t]here is no evidence of record to support the applicant's claim to fame of its mark[s]." Moreover, aside from the lack of proof thereof, there is no evidence of record which would even demonstrate that, as claimed by applicant, it has a family of "STATION" marks.

As explained in *J & J Snack Foods Corp. v. McDonald's Corp.*, 932 F.2d 1460, 18 USPQ2d 1889, 1891-92 (Fed. Cir. 1991):

A family of marks is a group of marks having a recognizable common characteristic, wherein the marks are composed and used in such a way that the public associates not

only the individual marks, but the common characteristic of the family, with the trademark owner. Simply using a series of similar marks does not of itself establish the existence of a family. There must be a recognition among the purchasing public that the common characteristic is indicative of a common origin of the goods.

Recognition of the family is achieved when the pattern of usage of the common element is sufficient to be indicative of the origin of the family. It is thus necessary to consider the use, advertisement, and distinctiveness of the marks, including assessment of the contribution of the common feature to the recognition of the marks as of common origin.

The record herein is devoid of any evidence showing that applicant has in fact developed a family of marks containing the term "STATION" as the common characteristic or "family" feature thereof.

Specifically, as explained in *Land-O-Nod Co. v. Paulison*, 220 USPQ 61, 65-66 (TTAB 1983), in order to establish the existence of a family of marks:

[I]t must be shown by competent evidence, first, that ... the marks containing the claimed "family" feature, or at least a substantial number of them, were used and promoted together ... in such a manner as to create public recognition coupled with an association of common origin predicated on the "family" feature; and second, that the "family" feature is distinctive (i.e., not descriptive or highly suggestive or so commonly used in the trade that it cannot function as a distinguishing feature of any party's mark).

Here, applicant has not submitted any evidence that it even has various "STATION" marks, much less that it has promoted such marks together in such a way as to create a family of marks. All that applicant has done, instead, is merely to assert that it

owns a single registration for the mark "PALACE STATION HOTEL-CASINO," without offering proof of its claimed ownership thereof. Furthermore, it should be noted that even if applicant had submitted evidence that it was the owner of such registration as well as any other registrations for marks which share the term "STATION," such a showing alone would be an insufficient basis on which to predicate the existence of a family of marks. See, e.g., Hester Industries, Inc. v. Tyson Foods, Inc., 2 USPQ2d 1646, 1647 (TTAB 1987); Consolidated Foods Corp. v. Sherwood Medical Industries Inc., 177 USPQ 279, 282 (TTAB 1973); Polaroid Corp. v. American Screen Process Equipment Co., 166 USPQ 151, 154 (TTAB 1970); and Polaroid Corp. v. Richard Mfg. Co., 341 F.2d 150, 144 USPQ 419, 421 (CCPA 1965).

Moreover, and in any event, it is pointed out that the sole issue before us is whether the "DURANGO STATION" mark which applicant seeks to register so resembles any or all of the registrant's "DURANGO" marks that, when used in connection with shirts and jackets, confusion is likely. Consequently, even if applicant were to demonstrate that it has established a family of marks characterized by the term "STATION," such would not aid or otherwise entitle applicant to the registration which it seeks. See, e.g., Hornblower & Weeks Inc. v. Hornblower & Weeks Inc., 60 USPQ2d 1733, 1737 (TTAB 2001); Baroid Drilling Fluids Inc. v. Sun Drilling Products, 24 USPQ2d 1048, 1052 (TTAB 1992); and In re Lar Mor Int'l, Inc., 221 USPQ 180, 183 (TTAB 1983).

Lastly, with respect to the three third-party registrations relied upon by applicant,⁸ we disagree with applicant's contention that such registrations show that marks which consist of or include the word "DURANGO" are weak marks in the clothing field and thus should be entitled to only a narrow scope of protection. Instead, for the reasons properly set forth by the Examining Attorney, such registrations are not persuasive of a finding of no likelihood of confusion herein. Moreover, contrary to applicant's assertion, we find that none of the marks which are the subjects of the third-party registrations, including the mark "DURANGO KID," is as substantially similar to registrant's "DURANGO" marks, particularly in terms of overall connotation and commercial impression, as is applicant's "DURANGO STATION" mark. Nonetheless, to the extent that the registrations may be said to raise any doubt as to whether there is indeed a likelihood of confusion between applicant's mark and those of the cited registrant, we resolve such doubt, as we must, in favor of the cited registrant. See, e.g., In re Martin's Famous Pastry Shoppe, Inc., 748 F.2d 1565, 223 USPQ 1289, 1290 (Fed. Cir. 1984); and In re Pneumatiques Caoutchouc Manufacture et

⁸ Although copies of such registrations were not made of record, and the Board does not take judicial notice of third-party registrations (see, e.g., In re Duofold Inc., 184 USPQ 638, 640 (TTAB 1974)), it is obvious that the registrations for the marks "DURANGO & SILVERTON NARROW GAUGE RAILROAD" and "DURANGO & SILVERTON NARROW GAUGE RAILROAD AND MUSEUM" are owned by the same entity, so that at most there are only two other entities which, on this record, own registrations for marks which include the word "DURANGO" for shirts and jackets. Plainly, the clothing field is not one which can be characterized as being "crowded with," as applicant maintains, marks which consist of or encompass the word "DURANGO."

Plastiques Kelber-Columbes, 487 F.2d 918, 179 USPQ 729, 729 (CCPA 1973).

Accordingly, we conclude that consumers, who are familiar or acquainted with registrant's "DURANGO" marks for "shirts" and "jackets," would be likely to believe, upon encountering applicant's substantially similar "DURANGO STATION" mark for, *inter alia*, "shirts" and "jackets," that such legally identical goods emanate from, or are sponsored by or affiliated with, the same source.

Decision: The refusal under Section 2(d) is affirmed.